

# CITY COUNCIL REPORT



MEETING DATE: August 26, 2003

ITEM NO. \_\_\_\_\_

GOAL: Coordinate Planning to Balance Infrastructure

## SUBJECT

### Abandonment of Right-Of-Way

## REQUEST

Request to consider the following:

1. Abandon the south 15 feet of the south 40 feet of Black Mountain Road, and the west 20 feet of the west 40 feet of 81<sup>st</sup> Street.
2. Reserve public utility easements over, under and across the subject right of way and roadway easement.
3. Adopt Resolution 6350 vacating and abandoning a portion of right of way and roadway easement.

**6-AB-2003**

### Related Policies, References:

(3-AB-91)

### Key Issues.

- Planning Commission recommends approval 7-0
- Maintains consistency with city street standards as approved by the Transportation Department.
- The new subdivision would dedicate a private, internal street to provide lot access.
- Public utility easements are reserved according to the utility company requirements.
- The new Trails Master Plan has no trail requirements across the subject right-of-way alignments.

## OWNER

Jonathan Lurie

## APPLICANT CONTACT

Mirage Investments  
3533 N. 70<sup>th</sup> Street, Suite 103  
Scottsdale, Arizona 85251  
602-577-3521

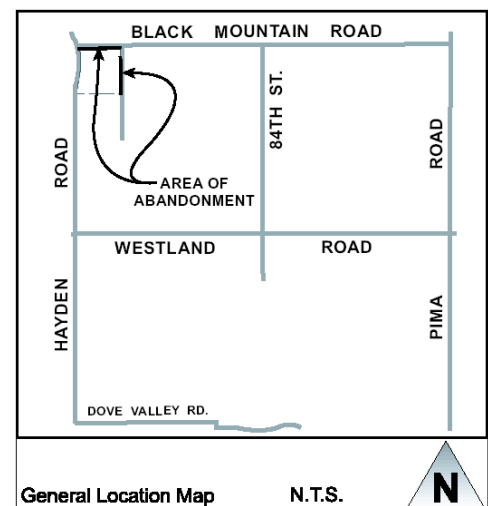
## LOCATION

E Black Mountain Rd / N 81<sup>st</sup> Street (Southeast Corner)

## BACKGROUND

### Background.

The subject 15 feet of Black Mountain Road and 20 feet of 81<sup>st</sup> Street right-of-ways were originally dedicated in the County in 1956. Black Mountain Road has half-street improvements that were done at the time of the Sandflower Development to the north. 81<sup>st</sup> Street is not improved but is graded and is accessible in fair weather conditions.



General Location Map

N.T.S.



**Zoning.**

The site is zoned R1-43, Single Family Residential with Environmentally Sensitive Lands.

**Context.**

This abandonment is being processed in conjunction with a proposed subdivision. The Development Review Board approved the proposed subdivision on July 10, 2003. The final plat for the subdivision will be planned to be before City Council in November of this year.

The proposed subdivision is to create seven lots accessed by a private, internal road. The private street will exit out onto the existing, improved local collector, Hayden Road. A final will be presented to the City Council later this year.

**APPLICANT'S  
PROPOSAL****Goal/Purpose of Request.**

This request is to abandon 15 feet of Black Mountain Road right-of-way and 20 feet of 81<sup>st</sup> Street right-of-way. The Black Mountain Road remaining south 25-foot half-street right-of-way is the City's requirement for a local collector. 81<sup>st</sup> street requires a 20-foot half-street right-of-way for a local street. A 40-foot, half-street section for 81<sup>st</sup> Street immediately south of Black Mountain Road will need to be maintained since a large saguaro and other rock outcroppings occupies the area.

A public utility easement would be retained over the subject right-of-ways until such time as exact easement locations are determined.

The new Master Trails Plan calls out a trail down the west side of Hayden Road, along the Boulders property. There are no trail requirements across either of the proposed right-of-way abandonment alignments.

**IMPACT ANALYSIS****Departmental Responses.**

City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

**Transportation Impact.**

The proposed residential development fronts two local collector streets: Hayden Road and Black Mountain Road. A 25-foot half-street right-of-way dedication is required on each. There is a 25-foot half-street dedication along Hayden Road and a 40-foot half-street dedication along Black Mountain Road; therefore, the abandonment of 15 feet along Black Mountain Road is appropriate. 81<sup>st</sup> Street is a local residential street on the east side of the tract, with a current 40-foot half-street right-of-way dedication. Only 20 feet is required, thus the abandonment of 20 feet is appropriate, except for the area adjacent to Black Mountain Road where the 40-foot half-street dedication will be retained for a short distance because of terrain features.

**Community Involvement.**

After providing notice to adjacent property owners, the applicant held a public open house on May 22, 2003 regarding the abandonment and associated plat. Sixteen (16) people attended the meeting.

No objections to the abandonment have been received; however, comments related to the proposed subdivision recommended that access be off of Black Mountain Road or 81<sup>st</sup> Street rather than Hayden Road. Two property owner phone calls requested that staff require half-street improvements, including the paving of 81<sup>st</sup> Street.

Property owners noted that areas to be abandoned along 81<sup>st</sup> Street, were heavily vegetated and contained some rock features. Several people expressed the desire that these areas be Natural Area Open Space (NAOS).

**Community Impact.**

The abandonment of the subject right-of-ways will reduce the amount of area that can be used for public roadway purposes. The proposed plat will incorporate the abandoned areas into lots and tracts. The proposed subdivision will be responsible to complete the roadway improvements for Black Mountain Road, which include pavement, curb, and gutter. 81<sup>st</sup> St will also be improved to a local neighborhood standard.

**OTHER BOARDS AND COMMISSIONS**

**Planning Commission.**

The Planning Commission heard this case on June 11, 2003. There was one citizen who spoke in favor of the abandonment.

The Planning Commission recommends approval, 7-0.

**RECOMMENDATION**

Staff recommends approval subject to a public utility easement reserved over, under, and across the subject property.

**RESPONSIBLE DEPT(S)**

**Planning and Development Services Department**

**STAFF CONTACT(S)**

Pete Deeley  
Project Coordination Manager  
480-312-2554  
E-mail: [pdeeley@ScottsdaleAZ.gov](mailto:pdeeley@ScottsdaleAZ.gov)

Jeff Fisher  
Plan Review and Permit Services  
Director  
480-312-7619  
E-mail: [jefisher@ScottsdaleAZ.gov](mailto:jefisher@ScottsdaleAZ.gov)

**APPROVED BY**

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Kroy Ekblaw	Date
General Manager, Planning & Development Services Department	

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Ed Gawf	Date
Deputy City Manager	

**ATTACHMENTS**

1. Departmental Checklist
2. Context Aerial
3. Detail Aerial
4. Area Trails Plan
5. Proposed Subdivision
6. June 11, 2003 Planning Commission Minutes
7. Resolution No. 6350

# **CASE 6-AB-2003**

## **Department Issues Checklist**

### **☒ Support**

The reduction in the subject right-of-ways will not affect the ability to provide the approved local street configuration per the City's Transportation Department.

### **Trails**

#### **☒ Support**

The new Master Trails Plan requirement in this area shows a trail along west side of Hayden Road, along the Boulders property. There are no requirements for trails along the subject right-of-way alignments.

### **Adjacent Property Owner Notification**

#### **☒ Support**

All adjacent property owners within 750 feet have been noticed and invited to a neighborhood meeting on May 22, 2003 at El Pedregal between 7 and 9 PM. Also include in the notice was a description of the abandonment and subdivision plat proposal. Two property owners to the east had concerns about improving 81<sup>st</sup> Street.

### **Public Utilities**

#### **☒ Support**

Letters of support from the affected public utility companies are on file with the City of Scottsdale as long as a public utility easement is reserved over the subject right-of-ways until such time as all utilities are located.

### **Emergency/Municipal Services**

#### **☒ Support**

Emergency service vehicle access is being provided along the proposed private street.

### **Water/Sewer Services**

#### **☒ Support**

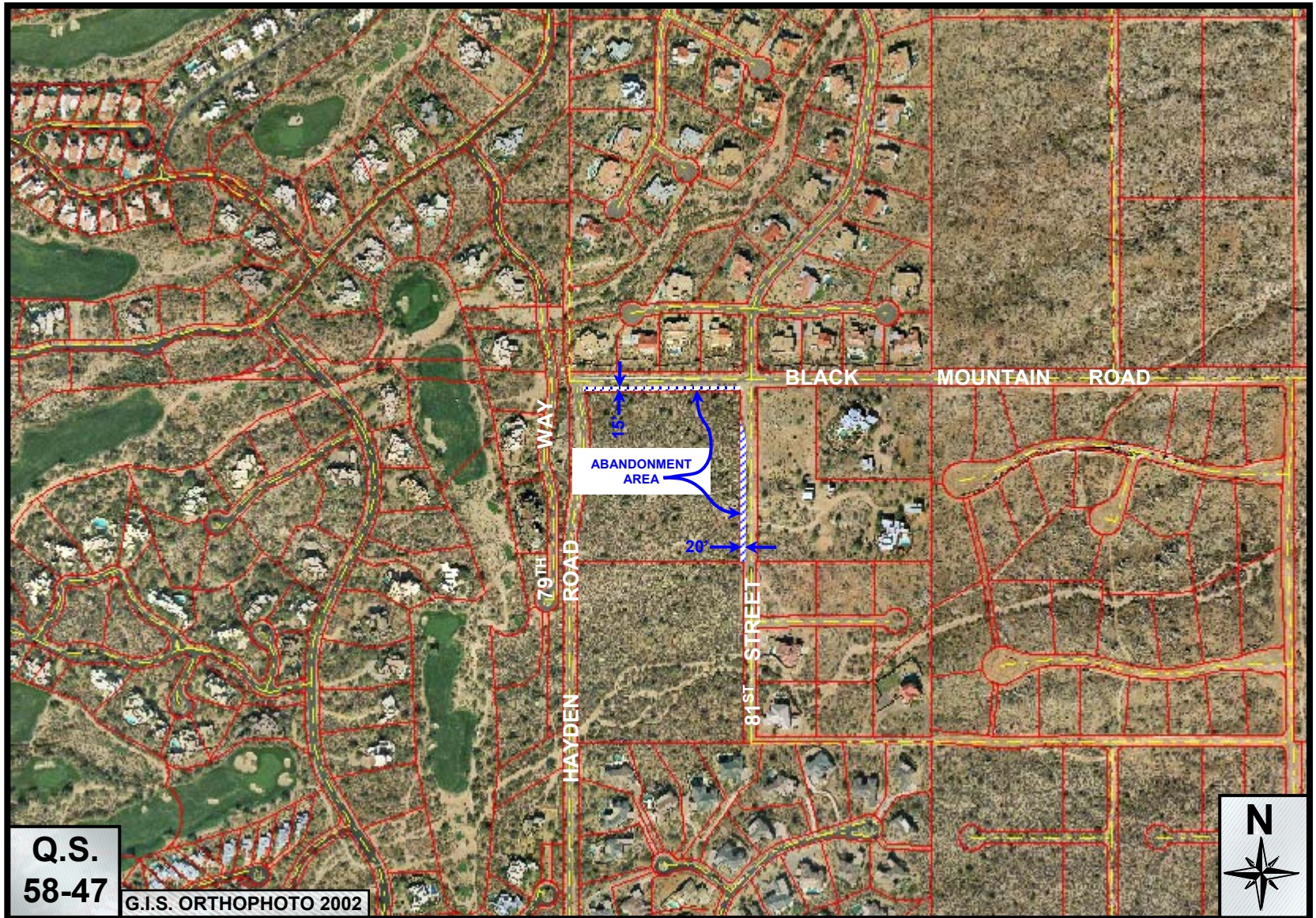
Water and sewer services have no objection to the abandonment.

### **Drainage**

#### **☒ Support**

Drainage easements for washes over 50 cubic feet per second will be required at the time the property is redeveloped.



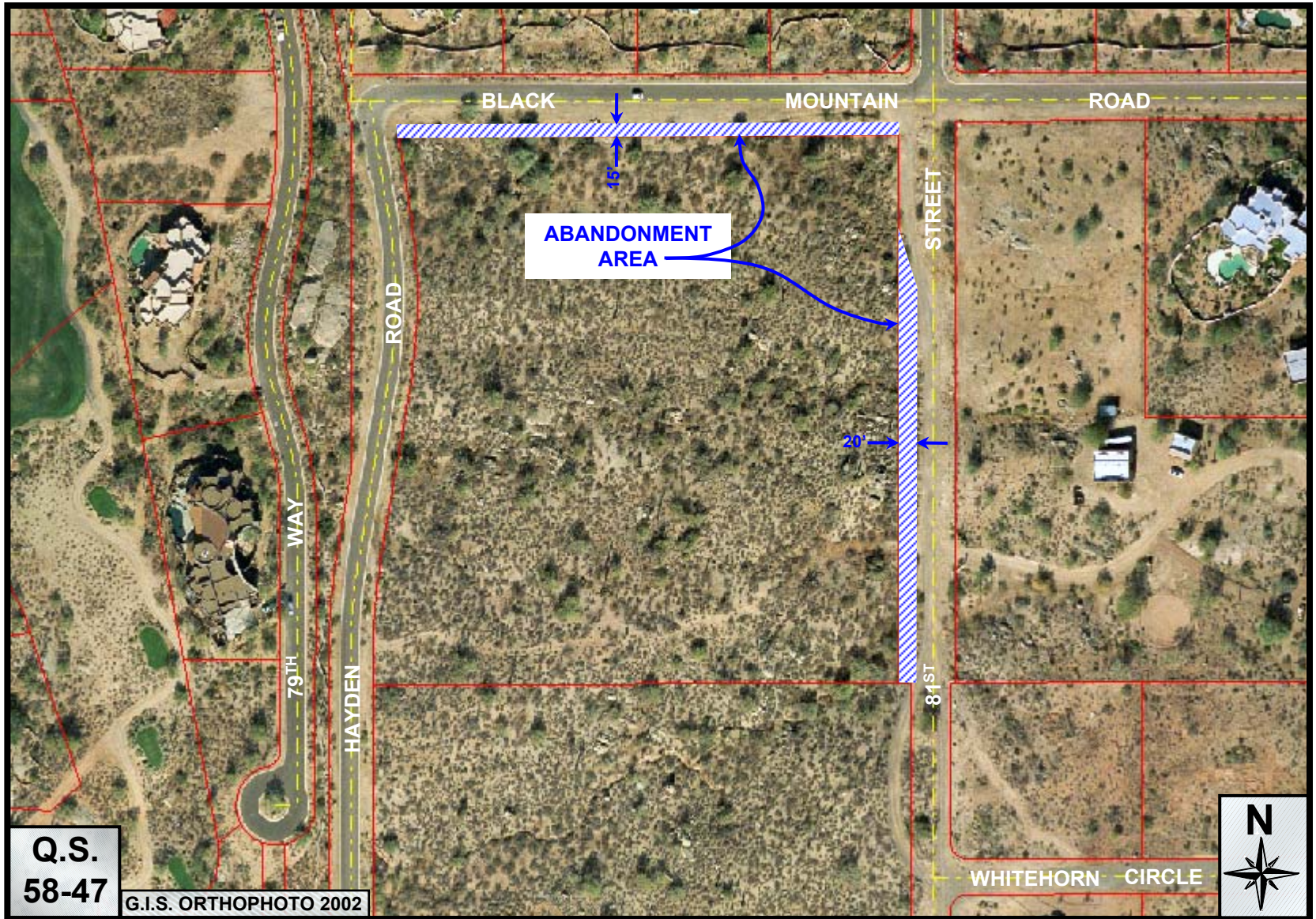


Hayden Road and  
Black Mountain Road Property

**6-AB-2003**

ATTACHMENT #2

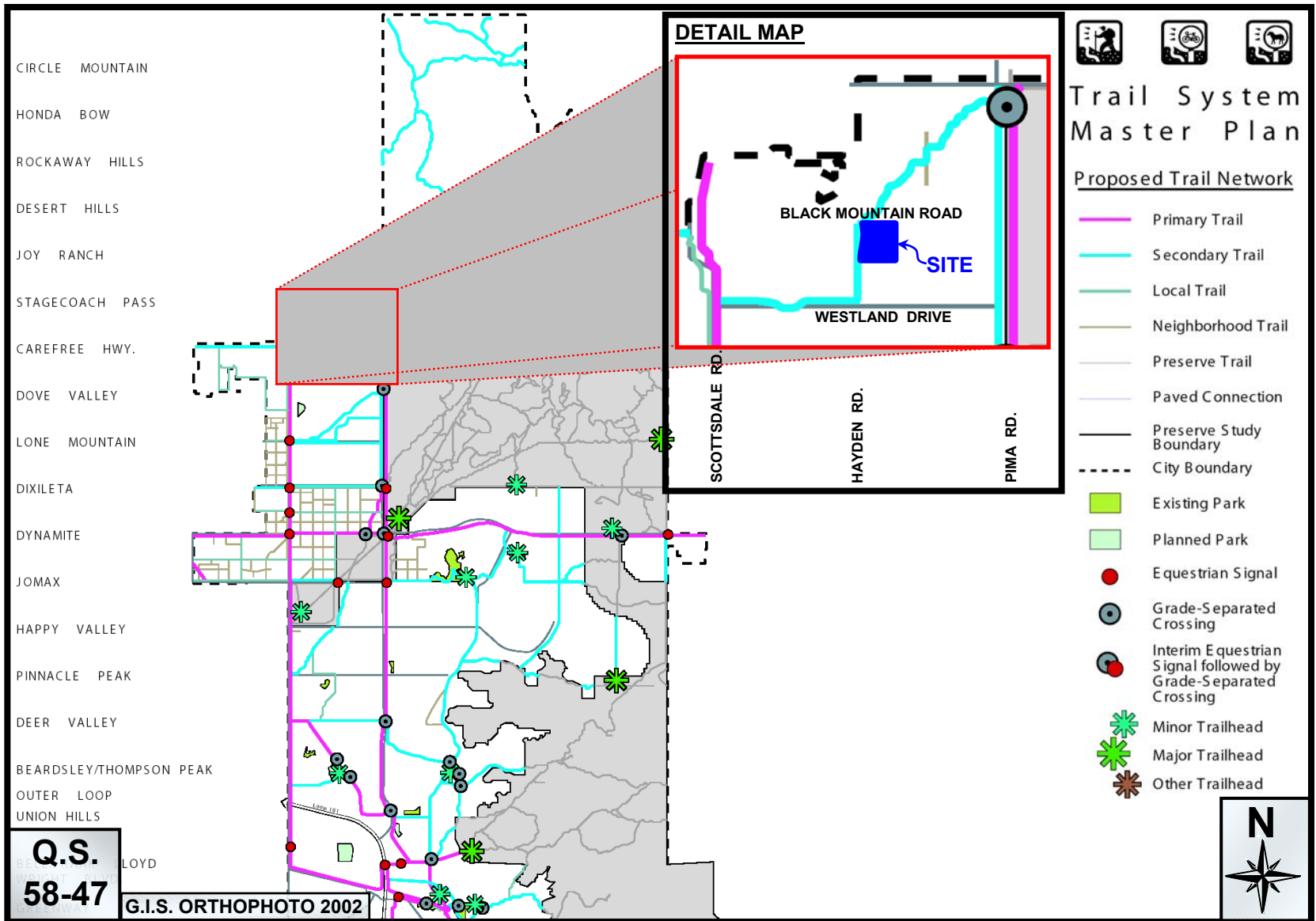




Hayden Road and  
Black Mountain Road Property

**6-AB-2003**

ATTACHMENT #3



# Hayden Road and Black Mountain Road Property

**6-AB-2003**

ATTACHMENT #4



APN 216-48-538  
ZONING R1-18 PCD ESL

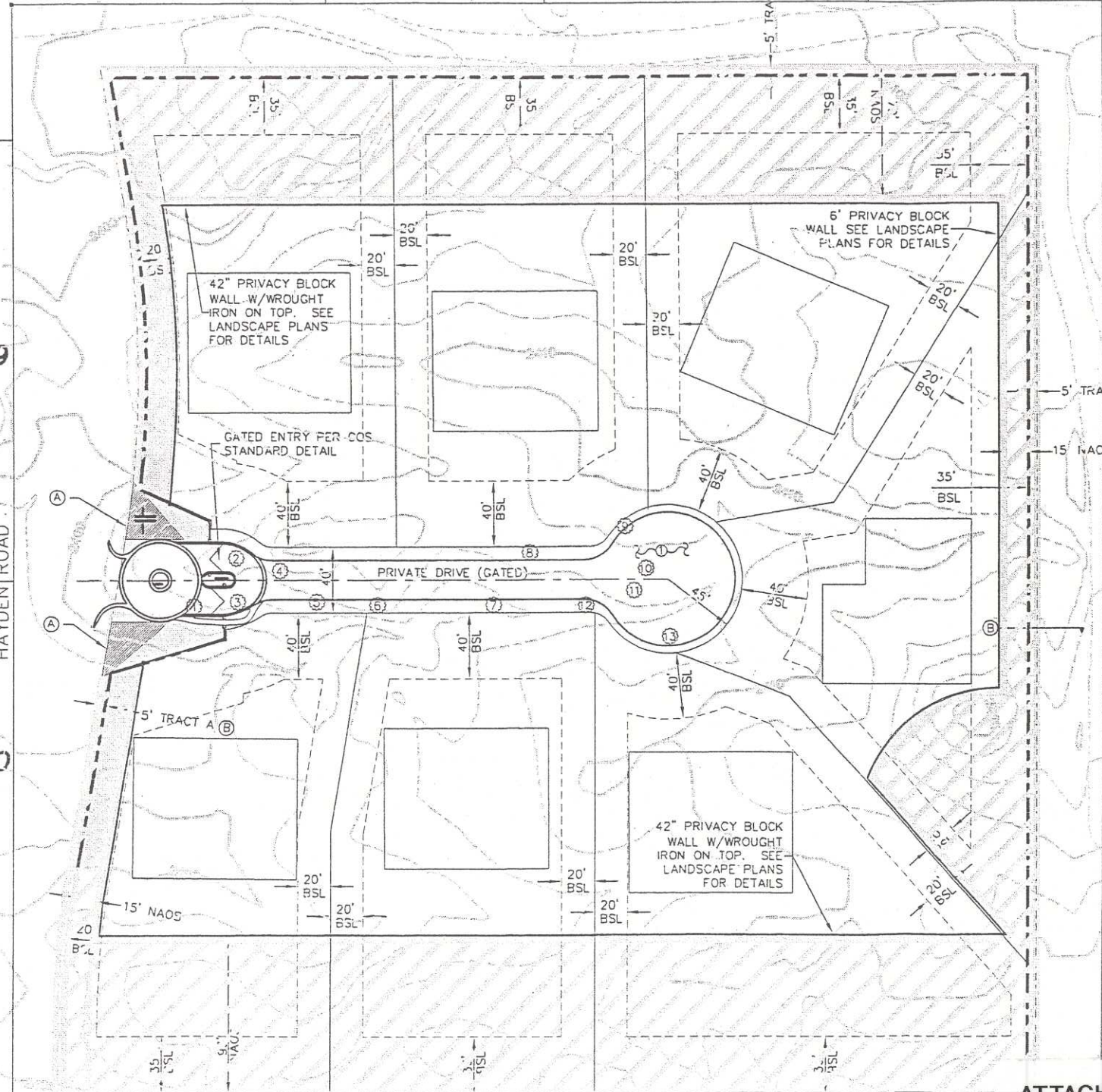
ZONING R1-43 ESL (HD)

BLACK MOUNTAIN ROAD

APN 216-48-539  
ZONING R1-18 PCD ESL

APN 216-48-540  
ZONING R1-18 PCD ESL

HAYDEN ROAD



81ST STREET

UNDEVELOPED  
ZONING R1-43 ESL

6-UP-2003 (Mountainside Fitness Express) request by James Elson Architect, applicant, BWE 2000 LLC, owner, for a conditional use permit for a health studio in a portion of the 11.96 +/- acre parcel located at 9181 E Bell Road with Industrial Park (I-1) zoning.

**MR. WARD** presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

**VICE CHAIRMAN STEINBERG MOVED TO FORWARD CASE 6-UP-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO IT MEETS THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER SCHWARTZ.**

**THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).**

6-AB-2003 (Abandonment Of ROW) request by Mirage Investments, applicant, Jonathan Lurie, Evan Lurie & Justin Lurie, owners, to abandon the south 15 feet of the Black Mountain Road right-of-way and the south 445 feet of the west 20 feet of the 40 Feet N 81st Street right-of-way that abuts the subject property.

**MR. DEELEY** presented this case as per the project coordination packet. Staff recommends approval subject to a public utility easement reserved over, under, and across the subject property.

**COMMISSIONER NELSEN** stated he is assuming this will not be an equestrian community. Mr. Deeley replied in the affirmative.

**COMMISSIONER SCHWARTZ MOVED TO FORWARD CASE 6-AB-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HESS.**

**CHAIRMAN GULINO** requested the Commission hold off on the vote because he just received a citizen comment card.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

**RICH VARIO**, 8102 E. Olsen Road, stated he is right down the street from this abandonment. He further stated the abandonment was fine. He remarked that he felt the developer should be required to improve 81<sup>st</sup> Street or at least the half street.

**COMMISSIONER NELSEN** inquired if Mr. Vario's current access to his home is ON 81<sup>st</sup> Street. Mr. Vario replied in the affirmative. He noted they can drive on the street but it is dirt. He further noted he would like to pave where he lives and so would his neighbors. He inquired what is the sense of paving it if you have to drive on 600 feet of dirt to get to the pavement. If it is required the developer paves the portion that is being abandoned to the 600 foot south of Black Mountain the neighbors and he would agree to the rest of it so they could have a paved road.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

RESOLUTION NO. 6350

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, VACATING AND ABANDONING A PORTION OF THE PUBLIC RIGHT-OF-WAY, APPLICATION NO. 6-AB-2003, PURSUANT TO THE PROVISIONS OF THE ARIZONA REVISED STATUTES, ARTICLE 8, CHAPTER 20, TITLE 28.

WHEREAS, application has been made to the Council of the City of Scottsdale for abandonment of a portion of public right-of-way; and

WHEREAS, A.R.S. Sec. 28-7202 provides that a city may dispose of a roadway or portion thereof when said property or portion thereof is no longer necessary for public use; and

WHEREAS, after notice to the public, hearings have been held before the Planning Commission and Council of the City of Scottsdale on the proposed abandonment of a portion of the public right-of-way, described in Application No. 6-AB-2003, within the City of Scottsdale; and

WHEREAS, it is in the opinion of the Council that the portion of public right-of-way described herein below is no longer necessary for public uses as roadway; and

WHEREAS, the City Council finds that consideration and other public benefit commensurate with the value of the property, giving due consideration to its degree of fragmentation and marketability, will be provided by the owner of the abutting property to the city.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:



Page two  
Resolution No. 6350

That the real property situated within the City of Scottsdale, Maricopa County, Arizona, and described in Exhibit "A" attached hereto and by this reference made a part hereof; be and the same is hereby vacated and abandoned subject to the reservation of a public utility easement over, under, and across the subject rights-of-way and the reservation of easements for all existing utilities, and reservation of such rights as are specified in A.R.S. Sections 28-7210 and 28-7215. A map marked Exhibit "B" disclosing the area vacated is attached hereto and by this reference made a part hereof.

PASSED AND ADOPTED by the Council of the City of Scottsdale this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Mary Manross, Mayor

ATTEST:

Sonia Robertson  
City Clerk

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Brad Woodford, Interim City Attorney